

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 13-10200-GAO

UNITED STATES OF AMERICA

v.

DZHOKHAR A. TSARNAEV,
Defendant.

ORDER
August 18, 2014

O'TOOLE, D.J.

The defendant has moved for “clarification” of his obligation to make penalty-phase affirmative expert disclosures on or before September 2, 2014. He suggests it was not clear from the Court’s Scheduling Order (dkt. no. 385) whether he must make pre-trial disclosure as to mitigation experts. Further, he argues that he should not be required to do so because such disclosures would prejudice his Fifth and Sixth Amendment rights in the first phase of trial.

It is conceivable in the abstract that pre-trial disclosure of penalty-phase expert evidence could prejudice a defendant in the first phase of a trial. However, in this context, particularly in light of my awareness of the mitigation experts for whom funds have been approved, I conclude that the disclosure of these expert materials will not prejudice the defendant’s rights as to the first phase of trial.

The defendant's Motion for Clarification (dkt. no. 442) is DENIED, and he must make disclosures as to affirmative penalty-phase experts in a manner that comports with Federal Rule of Criminal Procedure 16(b)(1)(C) on or before September 2, 2014, as previously ordered.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge